

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

Food Lion, LLC, and Maryland and
Virginia Milk Producers Cooperative
Association, Inc.,

Plaintiffs,

v.

Dairy Farmers of America, Inc.,

Defendants.

Case No. 1:20-cv-00442

**MOTION TO COMPEL COMPLIANCE WITH
SUBPOENA DUCES TECUM**

Pursuant to Rule 45(d)(2)(B)(i) of the Federal Rules of Civil Procedure, Dairy Farmers of America, Inc. (“DFA”) respectfully submits this motion to compel compliance with a third-party subpoena served in this district. DFA served the subpoena on Cobblestone Milk Cooperative, Inc. (“Cobblestone”) to obtain information regarding Cobblestone’s sales and shipment of raw milk within the “Relevant Area” of North Carolina, South Carolina, Virginia, Georgia and a portion of Tennessee. In support of this motion, DFA shows the Court as follows:

1. DFA served the Subpoena on Cobblestone on September 3, 2020 and provided Cobblestone with a copy of the Protective Order in this case. (Exhibits A, B).¹

2. The Subpoena sought, among other things, information sufficient to show Cobblestone's raw milk sales in the Relevant Area since 2017, copies of any supply or co-marketing agreements, documents sufficient to show Cobblestone's bids or proposals to supply milk to fluid processing plants, data sufficient to show hauling and shipping costs, and any studies, analyses or reports regarding various aspects of the market for raw milk. (*Id.*).

3. Cobblestone responded to the subpoena and produced limited documents on September 25, 2020. (Exhibit C).

4. On September 30, 2020, counsel for DFA contacted counsel for Cobblestone and requested that Cobblestone reproduce certain information in native format, provide additional data regarding its sales and shipments of raw milk, and produce unredacted copies of supply agreements and other contracts. (Exhibit I).

5. On October 18, 2020, Cobblestone advised that it had collected the additional data and documents. (*Id.*). Cobblestone refuses to make any further production, however, on the grounds that the information sought "is

¹ Citations to "Exhibit _" refer to the exhibits to the Declaration of Brent F. Powell, filed contemporaneously with this Motion.

confidential and is proprietary and is unrelated to the underlying issues involved in this case” and that disclosure of the information to Cobblestone’s competitors would be “detrimental to [its] business interests and operations.” (Exhibit J).

6. Cobblestone’s objections to the Subpoena lack merit. The Subpoena seeks discovery of information relevant to Plaintiffs’ allegations regarding the alleged market for raw milk in North and South Carolina. The Subpoena also seeks information relevant to competition for raw milk sales in the broader area that includes the Carolinas, Georgia, Virginia, and a portion of Tennessee.

7. In addition, the Protective Order in place in this lawsuit (ECF 50) provides adequate protection for Cobblestone’s confidential information, and Cobblestone has not identified any deficiencies in the Protective Order.

Based on the foregoing, and for the reasons set forth in the accompanying Brief in support of this motion, DFA respectfully requests that the Court order Cobblestone to make a full production of documents responsive to the Subpoena.

Date: December 3 2020

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 37.1(a), I certify that after consultation and diligent attempts to resolve differences, DFA and Cobblestone are unable to reach an accord as to the issues in dispute in this Motion to Compel. Counsel for the parties exchanged correspondence on September 30, October 18, November 18 and November 20, 2020, and held telephonic meet-and-confers on November 4 and November 20, 2020.

/s/ Brent F. Powell

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